



Homeland Security

March 31, 2008

Governor Mark Sanford
Governor of South Carolina
State Capitol
Columbia, South Carolina 29201

Dear Governor Sanford:

I write in response to your March 31, 2008 letter regarding the steps South Carolina has taken to enhance the security of its driver's licenses and other credentials.

Let me begin by emphasizing the high regard in which I hold you and your office. I recognize that we may not agree in all respects about the *REAL ID Act of 2005*, P.L. 113-09. However, I very much appreciate the tone and spirit that you have brought to the debate.

You have stated publicly that you are not requesting an extension under the REAL ID Act; instead, your letter asks that I consider South Carolina's considerable commitment to the security of its licenses and that DHS treat South Carolina licenses like those issued by Montana.

As you know, the Secretary of Homeland Security has no legal authority to waive compliance with the REAL ID Act. Under statute, the Department can only grant an extension of the compliance deadline. I can provide the relief you are seeking if your letter can be treated as a request for an extension. By law, an extension may only be granted to allow a State "to meet the requirements of" REAL ID. Like Montana, South Carolina has adopted legislation preventing implementation of REAL ID, but also like Montana, your letter sets forth in detail how South Carolina will in fact meet the principal security requirements of REAL ID – as a matter of South Carolina's independent judgment, and not as an act of compliance.

I understand your view, and I respect it. The Federal Government should be interested in results, not words, and your letter offers results that will greatly improve South Carolina's driver's license security. Indeed, based on your assurances, it seems clear that South Carolina is well on the way to meeting requirements comparable to those required by the final REAL ID regulation. I will therefore treat your letter as a basis for an extension and hereby grant it.

Before closing, I must respond at least briefly to the arguments you raise against the REAL ID Act. They are thoughtful, responsible, and honest concerns that deserve equally thoughtful responses. Although I respect them, I cannot agree with all of them.

First, I believe that valid, tamper-proof identification is critical to making Americans safer; it will make it difficult for terrorists (as well as con men and illegal workers) to change their identities and evade our watchlists. REAL ID accomplishes this.

REAL ID does not create a national database; it simply builds on structures that the States themselves have previously created to make sure that drivers cannot escape the law by using multiple licenses or presenting false licenses when stopped for traffic violations. Indeed, law enforcement currently networks nationally to share motor vehicle data. Those systems have not produced the large-scale data compromises you fear.

Similarly, the law limits the purposes for which REAL ID licenses must be produced to Federal purposes. Licenses are required by banks and other private business establishments not because of Federal law but because, unfortunately, we now live in a world where identity theft is rampant. REAL ID will make identity theft more difficult, and that is a good thing. The States may regret it, but driver's licenses have become de facto identity credentials for many purposes. REAL ID is not a way of expanding Federal authority over the States; instead, REAL ID simply says that the Federal Government should not accept State credentials unless they meet minimum security standards. That is not Federal regulation, it is Federal self-protection.

I understand entirely your concern about the cost of the program; DHS worked hard to cut out three-quarters of the costs, including the wait time costs, in the final rule. I have also supported a large increase in grant funds dedicated to REAL ID compliance costs. Your observations about unfunded mandates, of course, touch on broader policy concerns.

Similarly, I understand your dissatisfaction with the process by which REAL ID was passed. That said, I note that Congress has passed not one but two laws to implement the 9/11 Commission recommendations, and secure licenses were a core element of those recommendations. Congress could not have ignored secure licenses in enacting the Commission's recommendations.

While you and I may disagree about the best means to achieve secure identification, I am pleased that we agree on the more fundamental issue – improving the security of driver's licenses across the country. I look forward to continuing this respectful dialogue with you and your colleagues.

Sincerely,



Michael Chertoff